

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 5503 of 2006(E)

PETITIONER:

VALSALAN, S/O.SANKARAN,
55 YEARS, MAROTTIKUNNU HOUSE, PADY,
KODUNGALLUR.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:

1. THE SALE OFFICER, (ASSISTANT REGISTRAR),
TRICHUR DISTRICT CO-OPERATIVE BANK,
OFFICE OF THE JOINT REGISTRAR, THRISSUR.
2. TRICHUR DISTRICT CO-OPERATIVE
BANK, KODALI BRANCH REPRESENTED BY ITS MANAGER.

BY ADV. SRI.T.R.HARIKUMAR
SR. G.P. SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 5503 OF 2006

DATED THIS THE 5th DAY OF MARCH, 2007

JUDGMENT

The petitioner is a defaulter in re-payment of loan amounts due to the 2nd respondent – Trichur District Co-operative Bank. The bank has obtained an award against the petitioner. The same is now being implemented by issuing Ext.P1 sale notice for sale of the properties belonging to the petitioner. The same is under challenge in this writ petition. The petitioner's contention is that the sale is vitiated in so far as the property in question is a large extent of land and only the portion of the same would be sufficient for recovery of the loan amount and as such there is violation of provisions of the Kerala Co-operative Societies Rules. However, for the present he would be satisfied with a direction to the 2nd respondent – bank to consider the petitioner's claim for one time settlement.

2. The learned counsel for the bank, while admitting that the bank does have a scheme for one time settlement, submits that the petitioner is not now entitled to the same, since after obtaining the award in 2003, several notices have been issued to the petitioner directing him to pay the amount and he has never approached the

bank seeking the benefit of one time settlement . The learned counsel for the bank also submits that the petitioner has also not paid the amount of Rs.15,000/- directed to be paid by the petitioner as per the order of this Court dated 23.2.06, as a condition for stay of recovery of the amounts in question.

3. After hearing both sides, I dispose of this writ petition with the following directions.

The petitioner shall file an application seeking the benefit of one time settlement within two weeks from today and also amount of Rs.25,000/- along with the application. If the petitioner complies with the said directions, the 2nd respondent -bank shall consider the application to be so filed and pass appropriate orders thereon. If the petitioner complies with the above directions, further coercive proceedings for recovery shall be kept in abeyance till orders are passed in the application for one time settlement and the recovery shall only be in accordance with the orders to be so passed. However, if the petitioner does not comply with the above directions, it would be open to the 2nd respondent to proceed with the proceedings now initiated without having to issue any further notice or proceedings in that regard.

S. SIRI JAGAN, JUDGE

Acd

